

25 JUN 2007



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In re Application of	:	
Pedersen et al.	:	
Application No.: 10/533,696	:	DECISION
PCT No.: PCT/US03/36077	:	
Int. Filing Date: 07 November 2003	:	ON
Priority Date: 08 November 2002	:	
Attorney Docket No.: 2005INO02	:	PETITION
For: Adaptive Broadband Platforms	:	
And Methods Of Operation	:	

This is in response to the renewed petitions under 37 CFR 1.47(a) filed on 06 April 2007 and 12 April 2007.

DISCUSSION

In a Decision mailed on 12 February 2007, the petition under 37 CFR 1.47(a) filed on 25 September 2006 was dismissed without prejudice because

Regarding requirement (1), the balance of the petition fee has been paid, thereby satisfying requirement (1).

Regarding requirement (2),... Petitioner states that

The Declaration signed by Roc A. Lastinger and a complete copy of the application including claims was sent to the last known address of Erling J. Pedersen... I sent the materials on August 8, 2006 via USPS Express Mail, certified with return receipt requested. The unopened Express Mail package was returned to me...

Further inspection of the materials accompanying the petition reveals that the USPS "Track & Confirm" sheet indicates that parcel EQ057152391US "was refused by the addressee at 8:46 am on August 17, 2006 in PHOENIX, AZ 85078 and is being returned to the sender." There is no clear indication in the application file that this was not the proper address for Mr. Pedersen. This suggests that it is not the case that he "cannot be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a). As for the issue of whether the "refusal" of the parcel referenced on the "Track & Confirm" sheet evidences conduct which amounts to a refusal to execute the application, it is noted that the copy of the letter from petitioner to Mr. Pedersen refers to an "enclosed patent application" and requests that Mr. Pedersen "please carefully review and sign the Declaration enclosed." However, the letter does not specifically identify the patent application at issue (i.e., by application number). Therefore, it is not clear that an attempt was made to present Mr. Pedersen with a copy of this specific application and an oath or declaration directed to it. Therefore, it would not be appropriate to conclude that he has "refused" to execute the application within the meaning of 37 CFR 1.47(a) on the basis of the present record.

In response, petitioner has paid the \$105.00 balance of the petition fee, satisfying requirement (1).

With respect to requirement (2), petitioner states that he personally prepared and mailed via Express Mail a letter to Erling Petersen requesting that he review an enclosed copy of the instant application (which he identifies by application number) and execute and return an enclosed declaration document directed to this application. Petitioner further states that

Soon after August 17, 2006, I personally received the USPS package EQ057152391US that was returned to me unopened. I opened that package and have in my files the entire contents of that package as described above.

The language "as described above" is interpreted as referring to the items referred to in the preceding paragraph - that is, the letter, declaration and application papers. In a telephone conference on 24 June 2007, Atty. Bachand confirmed this interpretation. This establishes that a declaration and a copy of this specific application were sent to Mr. Pedersen's last known address. As such, it would now be appropriate, within the meaning of 37 CFR 1.47(a), to interpret Mr. Pedersen's conduct as a refusal to execute the instant national stage application. Thus, requirement (2) has now been satisfied.

It is noted that petitioner filed a new declaration on 12 April 2007. As noted in the previous decision, the previous declaration, filed on 25 August 2006, was acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). Therefore, the 35 U.S.C. 371(c)(1), (2) and (4) date of this application is the date of said earlier declaration, 25 August 2006.

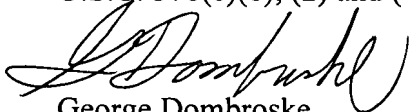
DECISION

The petition under 37 CFR 1.47(a) is GRANTED.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 25 August 2006.



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In re Application of
Pedersen et al.
Application No.: 10/533,696
PCT No.: PCT/US03/36077
Int. Filing Date: 07 November 2003
Priority Date: 08 November 2002
Attorney Docket No.: 2005IN02
For: Adaptive Broadband Platforms
And Methods Of Operation

Dear Mr. Pedersen:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in cursive script, appearing to read "G. Dombroske".

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Erling J. PEDERSEN) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US03/36077 and was filed on November 7, 2003 in the names of Erling J. PEDERSEN and Roc A. LASTINGER for the invention entitled ADAPTIVE BROADBAND PLATFORMS AND METHODS OF OPERATION. The national stage application number is 10/533,696 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of August 25, 2006.